



Paper No. 6

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Fang et al. | : | ON PETITION |
| Application No. 09/895,871 | : | AND NOTICE OF ABANDONMENT |
| Filed: June 29, 2001 | : | |
| Attorney Docket No. 13615.21USU1 | : | |

This is a decision on the petition filed January 4, 2002, requesting that above-identified application be accorded a filing date of June 29, 2001, with page 50 of the specification as part of the original disclosure.

On June 29, 2001, applicants filed the above-identified application. On September 19, 2001, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of June 29, 2001, and advising applicants that the statutory basic filing fee and additional claim fees were missing, and that the declaration was unsigned. The Notice informed applicants that in order to avoid abandonment, applicants must submit the statutory filing fee, additional claim fees, an executed oath/declaration, and a \$130.00 surcharge within two (2) months of the date of the Notice. Extensions of time under 37 CFR 1.136(a) were available. Additionally, the Notice advised applicants that page 50 of the specification appeared to have been omitted from the application.

In response, on January 4, 2002, applicants filed the present petition, a copy of page 50 of the specification, and paid the filing fee, additional claim fees, the surcharge, and the petition fee. The petition is accompanied by a copy of applicants' postcard receipt acknowledging receipt of 97 pages of specification, 76 claims and 1 page of abstract in the United States Patent and Trademark Office (Office) on June 29, 2001. Applicants requested that the application, including page 50 of the specification, be accorded a filing date of June 29, 2001, and the petition fee be refunded.

Upon review of the record, page 50 of the specification, deposited on June 29, 2001, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on June 29, 2001, included page 50 of the specification, which was subsequently misplaced in the Office. Therefore, the application, including page 50 of the specification, was complete on filing and entitled to a filing date of June 29, 2001.

Accordingly, the petition is granted.

The Notice of Missing Parts mailed on September 19, 2001, incorrectly indicated that page 50 of the specification appeared to be omitted. The Notice is hereby vacated in part with regard to the notification of the omission of page 50 of the specification. Accordingly, the petition fee is unnecessary and will be credited to counsel's Deposit Account No. 13-2725.

Although applicants' transmittal sheet indicates applicants' intention to submit an executed oath/declaration, no such document has been located in the file. Accordingly, the application is held abandoned as of November 20, 2001, for failure to properly and timely reply to the Notice of Missing Parts of September 19, 2001.

To revive the above-identified application, applicants must file a petition to revive under 37 CFR 1.137(a) or (b), the requisite petition fee, and an executed oath/declaration in response to the Notice of Missing Parts.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 29, 2001, using pages 1-49 and 52-97 of specification filed on June 29, 2001, and page 50 of the specification submitted on January 24, 2002. The Office of Initial Patent Examination is directed to mail a corrected filing receipt as requested by applicants, as well as issue a Notice of Abandonment.

Further correspondence with respect to this matter should be addressed as follows and to the attention of **Christina Tartera Donnell, Office of Petitions**:

By mail: Commissioner for Patents
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 Washington, DC 20231

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Telephone inquiries should be directed to Christina Tartera Donnell at (703) 306-5589.

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